



Our ref: 22/74

8 November 2022

The Hon Chris Rath MLC
Chair of the Standing Committee on Law and Justice
2022 Review of the Workers Compensation Scheme
NSW Parliament House, 6 Macquarie Street
SYDNEY NSW 2000

By email: law@parliament.nsw.gov.au

Dear Chair,

2022 Review of the Workers Compensation Scheme: Post-hearing responses (10 October 2022)

1. The New South Wales Bar Association (**the Association**) thanks the Standing Committee on Law and Justice for the opportunity to appear at the hearing for the 2022 Review of the Workers Compensation Scheme on 10 October 2022 and to respond to the question taken on notice by Ms Elizabeth Welsh, Deputy Chair, Common Law Committee, NSW Bar Association.

2. The question taken on notice appears on page 16 of the Transcript for Panel 2 and is copied below:

The Hon. SCOTT FARLOW: In our last hearing, we had some submissions that the workers compensation scheme wasn't necessarily fit for purpose when it came to psychological injuries. I think it's also been touched upon by Mr D'Adam in terms of where you get to 15 per cent whole person impairment and how that works. You've outlined how it works when it comes to psychological injuries, but do you see any benefit in having a separate scheme to assess psychological injuries in the workplace?

ELIZABETH WELSH: No.

TIM CONCANNON: I think the Law Society would have to take that question on notice, I must say. It's not something that I've ever considered, and nor has the society. I'd be pleased to have that opportunity.

ELIZABETH WELSH: I should say the same thing. That was really my personal thought, rather than having consulted with anyone.

SHANE BUTCHER: We'll all take it on notice.

3. The Association provides the following response to the Question.

4. The Association considers that there would be little benefit in a separate scheme to assess psychological injuries in the workplace. Rather, improved training for claims managers would go much further towards:
 - a. ensuring that workers compensation claims for psychological injuries are handled effectively, efficiently and appropriately; and
 - b. avoiding unnecessary harm to injured workers.
5. Based on the experience of Association members, claimants in the scheme are experiencing significant distress and frustration in being asked to relay their experience, often several times, to claims managers who may have no formal training in dealing with victims of psychological trauma. This is often exacerbated by issues of gaps in record-keeping coupled with the high turnover rate of claims managers and insufficient handovers between staff, which can mean that an injured worker has to relay their experience in detail to several different claims managers during the process.
6. This can result in the significant yet preventable re-traumatisation of claimants.
7. The Association therefore recommends that rather than establishing a separate scheme to assess psychological workplace injuries, significant investment should be made in long-term, specialist, trauma-informed training for claims managers.
8. The Association thanks you in advance for considering this response. Should you wish to discuss or if the Association may be of further assistance, please do not hesitate to contact Lucy-Ann Kelley, Policy Lawyer,

Yours sincerely,

Gabrielle Bashir SC

President